

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**DR. DONALD RAGGIO
DR. CHRIS RAGGIO**

PLAINTIFFS

V.

CAUSE NO. 3:19-cv-00022

**MTGOX, Inc., a Delaware corporation;
CODE COLLECTIVE, LLC, a New York limited liability company;
JED McCALEB, an individual**

DEFENDANTS

**JED MCCALED AND CODE COLLECTIVE, LLC'S RESPONSE IN
OPPOSITION TO PLAINTIFFS' MOTION TO REMAND**

COME NOW, Jed McCaleb and Code Collective, LLC (together "McCaleb"), and file this Response in Opposition to Plaintiffs' Motion to Remand, and state the following:

1. Plaintiffs filed this action on March 5, 2014, against numerous defendants seeking the return of 9,406.33 bitcoins allegedly stolen from their MTGOX account. *See* Complaint (Rec. Doc. 1-2).

2. Many of the originally-named MTGOX defendants filed for bankruptcy protection in Japan, along with filing a Chapter 15 petition in the Northern District of Texas Bankruptcy Court to recognize the Japanese bankruptcy (3:14-bk-31229). *See* Original Petition for Chapter 15 Relief (Rec. Doc. 1-1). To avoid the automatic stay of the bankruptcy in this action, Plaintiffs served and pursued their claims against the non-bankrupt defendants Jed McCaleb and Code Collective, LLC.

3. During the pendency of this suit, the value of bitcoin rapidly grew to the extent the MTGOX entities would be able to pay their creditors after all. As a result, Plaintiffs' Japanese counsel sought to have the original MTGOX bankruptcy liquidation action abandoned

and a new rehabilitation proceeding initiated in its place. *See* Motion for Modification of Recognition (Rec. Doc. 1-3).

4. A new rehabilitation proceeding was initiated, opening a new window for claims to be filed by MTGOX creditors. Once it became obvious the debtors' assets would be sufficient to pay their creditors, the Plaintiffs then filed a Proof of Claim seeking the very same 9,406.33 bitcoins they seek in the current suit. *See* Proof of Claim, Rec. Doc. 1-8.

5. The Northern District of Texas Bankruptcy Court officially recognized this new proceeding on December 11, 2018. *See* Second Recognition Order (Rec. Doc. 1-7). Based on this new Recognition Order and Plaintiffs' newly-filed Proof of Claim in the rehabilitation proceeding, McCaleb removed this lawsuit to this Court on January 10, 2019. *See* Notice of Removal (Rec. Doc. 1).

6. On February 11, 2019, Plaintiffs filed a Motion to Remand asserting the removal was improper as it was not related to the bankruptcy, was untimely, and because MTGOX, Inc. had not filed a joinder in this bankruptcy removal. *See* Motion to Remand (Rec. Doc. 7).

7. As set forth more fully in Jed McCaleb and Code Collective, LLC's Memorandum in Support of Response in Opposition to Plaintiffs' Motion to Remand, the removal of this action was proper, and this Court should deny the Plaintiffs' request to remand this action to state court. Plaintiffs' Proof of Claim made this action bankruptcy-related. Consent was not required. And the removal was timely pursuant to (1) Bankruptcy Rule 9027, (2) 28 U.S.C. Section 1446(b)(3), and (3) Bankruptcy Rule 9006(b).

WHEREFORE, Jed McCaleb and Code Collective, LLC respectfully request that Plaintiffs' Motion to Remand be denied.

Respectfully submitted, this the 4th day of March, 2019.

**JED McCALEB and
CODE COLLECTIVE, LLC**

By: /s/ Edwin S. Gault, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2019, I served a true and correct copy of the foregoing document via electronic mail to the following counsel of record:

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THIS, the 4th day of March, 2019.

/s/ Edwin S. Gault, Jr.
EDWIN S. GAULT, JR.